

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

MERCHANT CAPITAL, LLC and)	
NEW SUNSHINE, LLC,)	
)	
Plaintiffs / Counter-claim)	
Defendants,)	
)	CAUSE NO.: 1:13-cv-00873-JMS-DML
)	
v.)	
)	
MELANIA MARKS SKINCARE, LLC,)	
)	
Defendant / Counter-claim)	
Plaintiff.)	

PLAINTIFFS' STATEMENT OF PENDING DISCOVERY ISSUES

Plaintiffs Merchant Capital, LLC (“Merchant Capital”) and New Sunshine, LLC (“New Sunshine”) (collectively “Plaintiffs”), by counsel, for their Statement of Pending Discovery Issues, pursuant to the Magistrate Judge’s instructions of October 18, 2013, advises the Court of the following pending discovery issues (Defendant Melania Marks Skincare LLC has indicated they will file a separate report):

1. Plaintiffs still desire to take the deposition of Donald Trump, for the reasons stated in Plaintiffs’ Status Report Regarding Depositions [Dkt. 60], as supplemented on p. 5 of Plaintiffs’ Reply In Support of Their Motion To Continue The Trial Date [Dkt.65], which attached an e-mail of September 13, 2011, that had previously been withheld by the Defendant, stating in part that “Steve [Hilbert] indicated that when he spoke with Donald about a possible advance . . .” and “I believe Donald and I as well think this company could have some value someday . . .” [TRUMP 9487 and TRUMP 9492, part of Exhibit 1 to Dkt. 65]. This is in addition to numerous references to Donald Trump in the paper trail, identified in pp. 5-6 of Dkt. 60.

2. Plaintiffs received the responses to the Amended Second Request for Production to Defendant at 4:30 p.m. today. Based solely on the responses to the Request, it appears that the Defendant will be producing the responsive documents, and will do so by October 25.

3. As stated on p. 3 of Plaintiffs' Reply In Support of Their Motion To Continue The Trial Date [Dkt. 65], Defendant's supplemental production of previously-withheld documents include redactions of e-mail communications in which no attorney was involved, and therefore one would suppose there would be no attorney-client privilege. Plaintiffs have suggested to defense counsel that the easiest way to address this issue would be to provide the Magistrate Judge an unredacted version of the e-mails tomorrow for *in camera* inspection.

4. As previously reported, Plaintiff have recently received the transcript of the deposition of Melania Trump and anticipate filing a Motion To Compel on certified questions contained therein, including but not necessarily limited to the terms of Ms. Trump's one other license agreement, for a jewelry-merchandising deal. This disclosure, Plaintiffs believe, could be made subject to the currently-existing protective order in this litigation.

5. Also as previously reported, Plaintiffs have recently received the transcript of the deposition of Jonathon Gross, who repeatedly invoked attorney-client privilege. Plaintiffs anticipate filing a Motion To Compel responses to the certified questions in that deposition.

6. At 3:00 p.m. today, an attorney for Stephen Hilbert filed a motion for protective order relating to topics Mr. Hilbert refused to answer in his deposition on October 9, 2013.

Respectfully submitted,

/s/Kevin C. Tyra
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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

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/s/ Kevin C. Tyra _____
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